



June 2004

Dear AU Member,

One of the things that I find most disturbing about the Religious Right is that it treats the U.S. Constitution like a first draft.

You've probably read about recent efforts to add an amendment to the Constitution that would ban "gay marriage."

What you may not know is that this entire effort was cooked up, executed and even funded by the Religious Right.

That's right. This amendment represents not the will of the American people but the obsessions and manipulative character of Religious Right warhorses like Jerry Falwell, Pat Robertson and James Dobson.

Falwell, Robertson and Dobson are trying to undo the venerable efforts of statesmen like James Madison and George Mason.

I'm writing to you today to not only inform you of the latest scheme of the Religious Right, but also to ask you to work with AU and your community to stop it.

Make no mistake, there is a deliberate, well-coordinated and well-funded effort behind the so-called "Federal Marriage Amendment." It's spearheaded by a coalition of top Religious Right leaders who have engaged in war-council type meetings that have been going on for months—secretive, elusive gatherings that can only spell trouble.

Religious Right lawyers, TV preachers and representatives of various fundamentalist groups that hate church-state separation drafted the amendment. And when they felt the time was right, they summoned their devoted allies in the U.S. Senate and House of Representatives to introduce it into legislation.

If the Religious Right gets its way, and the amendment becomes law, it would force a rewrite of our U.S. Constitution, implanting the Religious Right's view of marriage into one of our founding documents.

(over, please)

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This amendment would be a major victory for the Right, one that would fuel them to push for additional discriminatory legislation that could jeopardize all forms of tolerance, including the principle of church-state separation.

These are trying times for those of us who cherish our Constitution, which guarantees equal protection for all Americans, not just some.

I know as an AU member you agree that we can't allow the behemoths of the Religious Right to damage our nation's cornerstone with this terribly flawed and ignoble amendment.

That's why Americans United is drawing a line in the sand today. I understand that people of goodwill may disagree on the issue of same-sex marriage, but I would hope we all agree that rewriting the U.S. Constitution is wrong.

We all know what the Religious Right wants to do—saturate public schools with fundamentalist Christianity, teach creationism, blanket the public square with religious symbols and pack the federal courts with right-wing ideologues. The ultimate goal of Religious Right leaders is to create a theocracy that enforces their brand of religiosity upon the rest of us.

You can be sure that if they get this amendment to pass, it will spur them on to walk the halls of Congress parading their victory and asking for more. We've seen it in the past: the Religious Right is ruthless and well-monied.

But no matter how powerful they think they are, the United States Constitution isn't written on a blackboard in chalk for them to erase and rewrite at their every whim.

In this season of presidential politics and with the conventions and elections right around the corner, the Religious Right is aggressively using the gay marriage issue to break fund-raising records, demonize gays and spur hordes of its supporters to the polls in November.

I'm counting on you and all AU members to not let another day go by without taking action to stop the Religious Right's latest scheme before it is too late.

When the debates began earlier this year, Americans United became actively involved in fighting the Religious Right's proposed constitutional amendment. We took on a leading role in a large coalition of religious, civil rights and other public interest groups urging Congress to ignore the Religious Right's demands.

In February, we sent a letter to Congress encouraging that body to reject the proposed constitutional amendment because, as we noted in the letter, such an amendment would "write a particular religious doctrine into the Constitution itself."

AU Communications staffers and I are asked by the media on a regular basis to comment on the Federal Marriage Amendment. In a Feb. 25 *USA Today* article about the controversy, I commented, "I do not want to see the legacy of Thomas Jefferson and James Madison revised by President Bush under pressure from Pat Robertson and Jerry Falwell."

That says it all. It's the type of message I want every American to hear.

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The torrent of the Religious Right's mounting media efforts hides the real truth behind its motives, making it more difficult to warn the public about the dangers of the Federal Marriage Amendment. True to form, the Religious Right has created great confusion on this issue through its constant campaigns of distortion and division.

Americans United, however, is firing back. In addition to our work with the coalition against the proposed amendment, we've also prepared a set of talking points about AU's opposition to the Religious Right's campaign. I've enclosed a copy of the points, entitled "The Federal Marriage Amendment: Some Questions and Answers," with this letter.

The talking points can also be obtained from the Americans United website, www.au.org. Please copy or print them out, and put them in the hands of everyone you know—friends, family, neighbors and your community leaders. You can help us explain why the First Amendment is being threatened by the Religious Right's charge for a constitutional amendment.

Your financial support of AU is also critical, because your contribution will enable AU to fight this and all of the Religious Right's other schemes to turn this country into a Christian Nation.

The Religious Right has already lined up its vast financial network behind this latest attack on the Constitution, and we need as much support as possible from AU members like you to challenge them. We must stop them dead in their tracks. Nothing less!

The rhetoric that Religious Right leaders are using is simply over the top. James Dobson has inappropriately compared this fight to Gettysburg and Waterloo, famous turning-point battles where tens of thousands of people lost their lives in a single day.

Dobson has also promised to become more partisan as the issue heats up. *The New York Times* has recently reported that Dobson, "widely regarded as one of the nation's most influential evangelical leaders," is forming a new political arm to better fight for the marriage amendment and political candidates who support it.

In May, Dobson led a "rally for marriage" in Seattle, which according to press accounts drew 20,000 people. He attacked the Massachusetts Supreme Court—which recently okayed same-sex unions—as "tyrannical," and proffered a dire warning about the future of America.

There is no doubt that Dobson is on a religious crusade. In a recent letter to supporters, he wrote, "Marriage is a sacrament designed by God that serves as a metaphor for the relationship between Christ and His Church. Tampering with His plan for the family is immoral and wrong."

In similarly dramatic language, the ultra-conservative *National Review* magazine thundered on its website that same-sex marriage "means losing American civilization."

Regardless of some of the Right's overwrought rhetoric, its drive to amend the Constitution is serious and dangerous—and unfortunately, seems to be making headway.

Several hearings on the Federal Marriage Amendment have already taken place in the House and Senate. Additionally, President George W. Bush endorsed passage of the amendment earlier this year.

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On May 17, Bush renewed his support for the Federal Marriage Amendment.

"The sacred institution of marriage should not be redefined by a few activist judges," Bush said. "I called on the Congress to pass, and to send to the states for ratification, an amendment to our Constitution defining and protecting marriage as a union of a man and a woman as husband and wife. The need for that amendment is still urgent, and I repeat that call today."

Bush completely overlooks the fact that marriage is a civil compact—it has a "sacred" dimension only if the couple wants one. Additionally, the wording of this amendment is so expansive that it would prohibit churches from conducting *any* religious ceremonies for same-sex couples.

I have also been troubled by the partisan angle to this debate. Marriage amendment boosters have put the question on the ballot in Missouri, knowing it might spur turnout by fundamentalists and help allied candidates win the swing state in November. Religious Right strategist Gary Bauer recently vowed, "We pledge to defeat any politician that is AWOL or in doubt about the definition of marriage being between a man and a woman."

We know what the leaders of the Religious Right are truly attempting to do: shove their religious understanding of marriage down our throats.

Rep. Marilyn Musgrave, the lead sponsor of the amendment, declared at the latest House hearing on the Federal Marriage Amendment that marriage is 'God's created order.' "In a very real sense," she said, "it is impossible for a man to marry a man, or a woman to marry a woman."

The Family Research Council has even promoted a sample sermon for pastors, so fundamentalists can energize supporters from pulpits all over America.

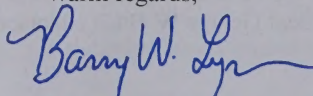
The Religious Right is arguing that the Constitution must be altered to reflect its religious beliefs. But we aren't living in a theocracy—yet. The Religious Right may claim to know the mind of God, but I have my doubts. In any case, our Constitution should protect us from religious rule, not enshrine it.

Our Constitution and our Bill of Rights secure our freedoms, and they should not be altered to placate the Religious Right. Please join me in fighting the Right's dangerous effort to pass the Federal Marriage Amendment.

You can educate your community about the threat that this new Religious Right crusade poses to the First Amendment principle of church-state separation. Share the enclosed talking points with as many people as possible. Explain to family, friends, and colleagues the need for them to be aware of the Religious Right's attack on the Constitution and why they should oppose it. Point them to AU's website, www.au.org, for more information.

And please send the most generous contribution you can manage to Americans United at this time. With your support, we will stand up to the Religious Right's latest attempts to impose its beliefs on our nation by altering our Constitution.

Warm regards,



Barry W. Lynn
Executive Director

The Federal Marriage Amendment: SOME QUESTIONS AND ANSWERS

A crusade is under way to add a "marriage amendment" to the U.S. Constitution. Although advocates have discussed different proposals, the current measure pending in Congress (S.J. Res. 30 in the Senate) states that, "Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman."

The purpose of the drive is ostensibly to bar the federal and state governments from recognizing marriages between gay couples, although the amendment also would eradicate hundreds of legal rights that gay and lesbian families currently enjoy under a number of state and local laws. Americans United believes that the campaign to place a marriage amendment in the Constitution raises important church-state and religious liberty concerns.

Here are some frequently asked questions designed to address these issues.

Q. *How would the marriage amendment affect church-state relations and the preservation of religious liberty?*

A. The marriage amendment would further entangle religion and government in America. Marriage in the United States already involves significant church-state interaction. Government recognizes unions conducted in either religious or civil settings, and clergy often act as agents of the state in performing weddings. This interaction, which springs from a long history, has come to be accepted by the general public. But when and if changes are necessary, legislators should not find themselves unable to act due to a hastily adopted constitutional amendment that gives preference to one segment of the American religious community.

Q. *How would the marriage amendment threaten the separation of church and state?*

A. An increasing number of religious communities have chosen to recognize marriages or other unions between gay couples. For example, the Unitarian Universalist Association, the Union for Reform Judaism, the United Church of Christ and individual clergy within many other traditions bless same-sex partnerships. Government officials should not arbitrarily and capriciously invalidate these actions while granting recognition to the marriage ceremonies of the majority faiths. This unequal treatment of similar religious rituals shows a great preference for some religious views over others.

In addition, several religious denominations (including the Presbyterian Church-USA and Episcopal Church-USA) that do not themselves sanctify marriages for same-sex couples are nevertheless firmly opposed to the marriage amendment precisely because it would subvert our

nation's strong commitment to religious pluralism. These denominations believe that the government should not assume the authority to pick and choose which marriages (including those same-sex marriages sanctified by particular faiths) are acceptable. They also oppose the amendment based on the extreme consequences the measure would have on the civil rights of gay men and lesbians, as well as their families. They believe that discrimination should never enter into the Constitution.

Q. *Don't we need this amendment to protect churches from being forced to perform weddings for same-sex couples?*

A. No. Arguments that a marriage amendment must be passed because houses of worship could be forced to perform same-sex unions if an amendment is not enacted are fallacious. Under the First Amendment's Free Exercise Clause, houses of worship are free to limit marriage on whatever theological grounds they choose. Thus, a church may limit marriage to its own members, require marrying couples to promise to raise children in the faith, refuse to perform ceremonies for anyone who has been divorced, or impose other types of limitations based on the group's tenets and beliefs. The right of religious bodies to decide which couples they will marry and which they will not is already protected by the First Amendment; another constitutional amendment is not needed to secure this freedom. Proponents of the marriage amendment have raised this issue as a scare tactic; it is wholly without merit.

Q. *Who's behind the drive for a marriage amendment?*

A. The effort to enact a marriage amendment is unquestionably driven by large and powerful religious movements that seek to impose their traditions' views on marriage

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into the U.S. Constitution. Leaders of all major Religious Right organizations—including the Southern Baptist Convention, the nation's largest Protestant denomination—met in a Washington, D.C., suburb in October 2003 to plot strategy on this issue. Those present at the “Arlington Group” session ranged from James Dobson and Jerry Falwell to Paul Weyrich and William Bennett. According to press accounts, these right-wing activists agreed to seek the most sweeping constitutional amendment possible in order to ban not only gay marriage, but also civil unions and hundreds of other government rights and benefits enjoyed by gay and lesbian families.

In addition to the Religious Right, the amendment drive is fueled by the Roman Catholic hierarchy. On Sept. 11, 2003, top leaders of the U.S. Catholic bishops endorsed efforts to add such an amendment to the Constitution. The move is in keeping with a July 31, 2003 statement from the Vatican that instructed all Catholics to oppose same-sex marriage and advised Catholic elected officials that a vote in favor of same-sex marriage would be “gravely immoral.”

Q. *Why are some religious groups so obsessed with this issue?*

A. They hope to get their definition of marriage made the law of the land through the Constitution. If they are successful, a view of marriage held by some—but certainly not all—religious groups will be imposed on all Americans. The major proponents of the plan have made their argument in explicitly religious terms. They have offered no compelling secular reasons for changing the Constitution in this way. On Feb. 5, 2004, President George W. Bush talked about the need for the amendment to protect the “sanctity” of marriage. Formally endorsing the amendment on Feb. 23, Bush said marriage between a man and a woman is “the most enduring human institution, honored and encouraged in all cultures and by every religious faith.” As noted above, the assertion that all religious faiths have defined marriage as only between a man and a woman is highly inaccurate.

Leaders of the Religious Right sometimes admit that the marriage amendment is based on their interpretation of religion. Joel Belz, publisher of the evangelical magazine *World*, wrote recently, “We may not like to admit it, but when you leave God’s design out of the argument, there’s really no reason any longer to limit marriage to a man and a woman.”

Q. *Doesn’t the country need this amendment to avoid opening the door to polygamy?*

A. U.S. courts have long recognized that the government does not have to permit religious practices that are dangerous that expose people to injury or that foster the suppression of fundamental rights. In countries where polygamy is practiced, women have been denied basic human rights. Many are forced into plural marriages against their will at young ages. The oppression of women spawned by polygamy, courts have ruled, is a compelling reason to ban the practice. Indeed, the U.S. Supreme Court ruled in 1879 that states may ban plural marriage, and more recent efforts to win legal sanction for it have failed.

Moreover, unlike a ban on polygamy, the marriage amendment is clearly designed to discriminate against a particular American minority group, namely gay and lesbian Americans and their families. Indeed, proponents of the amendment base their concerns on recent U.S. Supreme Court decisions that have invalidated laws that targeted gay and lesbian Americans for discrimination. Americans United believes that it is unacceptable to insert legally endorsed discrimination of any kind into America’s founding document.

Q. *Isn’t amending the Constitution an extreme step?*

A. Yes. Amending the Constitution is a serious move that should only be undertaken in cases of extreme necessity. No such need has been demonstrated here. The First Amendment and other provisions of the Bill of Rights guarantee all Americans a broad array of freedoms. Our nation should protect these freedoms, not restrict them by adding provisions to the Constitution that reflect the passing whims, momentary obsessions and ever-changing agendas of a politically aggressive portion of the American religious community.

The institutions of government and religion must be kept separate—for the benefit of both. While there has traditionally been some interaction between the two in regard to marriage law, Americans United believes it is serious mistake to compound that entanglement by writing the marriage practices of one segment of the religious community into the Constitution. It is vital that the American people and our elected officials understand that the civil rights of American citizens should not be curtailed at the behest of politically powerful religious groups that seek to impose their theological understanding of marriage on all Americans by constitutional fiat.

For more information about this and other religious liberty issues, contact Americans United for Separation of Church and State, 518 C Street NE, Washington, DC 20002. Our phone number is 202-466-3234 and our website is www.au.org.